

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

In re: PHARMACEUTICAL INDUSTRY)
AVERAGE WHOLESALE PRICE LITIGATION) MDL No. 1456
) Master File No. 01-CV-12257-PBS
) Subcategory Case No. 06-11337
)
)
THIS DOCUMENT RELATES TO:) Hon. Patti B. Saris
)
State of California ex rel. Ven-A-Care of the Florida)
Keys, Inc. v. Abbott Labs, Inc. et al.,)
Civil Action No. 03-11226-PBS)
)
)

**DECLARATION OF PHILIP D. ROBBEN IN SUPPORT OF
DEFENDANTS' JOINT SUR-REPLY BRIEF IN OPPOSITION TO
PLAINTIFFS' MOTION FOR PARTIAL SUMMARY JUDGMENT**

PHILIP D. ROBBEN declares, pursuant to 28 U.S.C. § 1746, that:

1. I am a member of the law firm of Kelley Drye & Warren LLP, counsel to Mylan Inc., Mylan Pharmaceuticals Inc., Dey L.P. and Dey, Inc. I am admitted to practice law in the State of New York and have been admitted *pro hac vice* in this action.
2. I make this Declaration in further support of Defendants' Joint Sur-Reply Brief in Opposition to Plaintiffs' Motion for Partial Summary Judgment.
3. The basis for my knowledge is my review of the files maintained by Kelley Drye & Warren LLP as part of its representation of Defendants, including the documents attached hereto, and my own personal knowledge of the facts and circumstances set forth herein.
4. Attached hereto as Exhibit 62 is a true and correct copy of a fax from C. McClain Haddow to Rod Jackson, dated October 23, 1992, attaching a memorandum regarding the "Meeting with California Department of Health Services Staff," Bates CAMylan04092021-25.

5. Attached hereto as Exhibit 63 is a true and correct copy of a document entitled "Final Statement of Reasons (R-72-89)," Bates RM-236-37.

6. Attached hereto as Exhibit 64 is a true and correct copy of a document entitled "Addendum to the Final Statement of Reasons (R-72-89)," Bates RM-207-10.

7. Attached hereto as Exhibit 65 is a true and correct copy of a letter from J. Rodriguez to L. McDonough, Associate Regional Administrator, Division of Medicaid, Health Care Financing Administration (HCFA), dated September 22, 1989, Bates RM-189-90.

8. Attached hereto as Exhibit 66 is a true and correct copy of a press release entitled "CPhA wins fight on AWP minus 12%," dated October 1989, Bates RM-228.

I declare under the penalty of perjury that the foregoing is true and correct.

Executed on January 29, 2010.

/s/Philip D. Robben

Philip D. Robben

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing was delivered to all counsel of record by electronic service pursuant to Paragraph 11 of Case Management Order No. 2, by sending on January 29, 2010, a copy to LexisNexis File & Serve for posting and notification to all parties.

/s/Philip D. Robben
Philip D. Robben